

ASSEMBLY BILL

No. 5

Introduced by Assembly Member Logue

December 6, 2010

An act to amend Section 11346.4 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 5, as introduced, Logue. Regulations: legislative notice.

Existing law, the Administrative Procedure Act, governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires that an agency mail a notice of proposed action to specified entities at least 45 days prior to the hearing and close of the public comment period on the adoption, amendment, or repeal of a regulation.

This bill would require that the notice of proposed action also be submitted to the Legislature if it includes particular information relating to economic and cost impacts of the regulation on businesses and private persons.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 6, 2010, pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11346.4 of the Government Code is
2 amended to read:
- 3 11346.4. (a) At least 45 days prior to the hearing and close of
4 the public comment period on the adoption, amendment, or repeal
5 of a regulation, notice of the proposed action shall be:
- 6 (1) Mailed to every person who has filed a request for notice of
7 regulatory actions with the state agency. Each state agency shall
8 give a person filing a request for notice of regulatory actions the
9 option of being notified of all proposed regulatory actions or being
10 notified of regulatory actions concerning one or more particular
11 programs of the state agency.
- 12 (2) In cases in which the state agency is within a state
13 department, mailed or delivered to the director of the department.
- 14 (3) Mailed to a representative number of small business
15 enterprises or their representatives that are likely to be affected by
16 the proposed action. "Representative" for the purposes of this
17 paragraph includes, but is not limited to, a trade association,
18 industry association, professional association, or any other business
19 group or association of any kind that represents a business
20 enterprise or employees of a business enterprise.
- 21 (4) When appropriate in the judgment of the state agency, mailed
22 to any person or group of persons whom the agency believes to
23 be interested in the proposed action and published in the form and
24 manner as the state agency shall prescribe.
- 25 (5) Published in the California Regulatory Notice Register as
26 prepared by the office for each state agency's notice of regulatory
27 action.
- 28 (6) Posted on the state agency's ~~website~~ *Internet Web site* if the
29 agency has a ~~website~~ *an Internet Web site*.
- 30 (7) *Submitted to the Legislature, in the manner prescribed by*
31 *Section 9795, if the notice of proposed action includes an economic*
32 *impact, cost impact, statement, or finding described by paragraph*
33 *(7), (9), (10), or (11) of subdivision (a) of Section 11346.5.*
- 34 (b) The effective period of a notice issued pursuant to this
35 section shall not exceed one year from the date thereof. If the

1 adoption, amendment, or repeal of a regulation proposed in the
2 notice is not completed and transmitted to the office within the
3 period of one year, a notice of the proposed action shall again be
4 issued pursuant to this article.

5 (c) Once the adoption, amendment, or repeal is completed and
6 approved by the office, no further adoption, amendment, or repeal
7 to the noticed regulation shall be made without subsequent notice
8 being given.

9 (d) The office may refuse to publish a notice submitted to it if
10 the agency has failed to comply with this article.

11 (e) The office shall make the California Regulatory Notice
12 Register available to the public and state agencies at a nominal
13 cost that is consistent with a policy of encouraging the widest
14 possible notice distribution to interested persons.

15 (f) Where the form or manner of notice is prescribed by statute
16 in any particular case, in addition to filing and mailing notice as
17 required by this section, the notice shall be published, posted,
18 mailed, filed, or otherwise publicized as prescribed by that statute.
19 The failure to mail notice to any person as provided in this section
20 shall not invalidate any action taken by a state agency pursuant to
21 this article.

22 SEC. 2. This act addresses the fiscal emergency declared by
23 the Governor by proclamation on December 6, 2010, pursuant to
24 subdivision (f) of Section 10 of Article IV of the California
25 Constitution.

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